IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMES HORACE ROGERS,	)	
Plaintiff,	)	C.A. No. 14-24 Pittsburgh
	)	
vs.	)	
	)	District Judge Fischer
SCI PGH – MHU UNIT 2003	)	Magistrate Judge Baxter
EMPLOYEES, et al.,	)	
Defendants.	)	

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

I.   RECOMMENDATION

It is respectfully recommended that this case be dismissed due to Plaintiff's failure to prosecute.

II.   REPORT

A.   Relevant Procedural History

Plaintiff James Horace Rogers filed this *pro se* civil rights action on January 6, 2014. At the time of filing suit, Plaintiff was incarcerated at the State Correctional Institution at Albion, Pennsylvania ("SCI-Albion"). On February 12, 2014, this Court issued an Order directing Plaintiff to provide USM-285 form service instructions to the United States Marshal for each Defendant so that Defendants can be properly served with the complaint in this matter [ECF No. 8]. The same Order requires Plaintiff to file a notice with the Court regarding any change of address he may encounter during the pendency of this case.

On March 26, 2014, this Court received a letter from the U.S. Marshal indicating that the required service instructions were never provided by Plaintiff in accordance with this Court's Order [ECF No. 9]. In addition, this Court was advised by the Marshal that Plaintiff was no

longer incarcerated at SCI-Albion, yet had not notified the Court of his change of address, as he is required to do. As a result, this Court issued a Show Cause Order directing Plaintiff to provide the Marshal with the necessary service instructions, and to file a notice of change of address with this Court, on or before April 28, 2014 [ECF No. 10]. Plaintiff was further advised that his failure to comply with said Order would result in this Court's recommendation that this case be dismissed. To date, Plaintiff has failed to provide the required service instructions and has failed to notify the Court of his change of address.

B.   Discussion

The United States Court of Appeals for the Third Circuit has set out a six-factor balancing test to guide a court in determining whether dismissal of a case is appropriate. Poulis v. State Farm Fire and Casualty Co., 747 F.2d 863 (3d Cir. 1984). The court must consider: 1) the extent of the party's personal responsibility; 2) the prejudice to the adversary caused by the failure to meet scheduling orders and respond to discovery; 3) a history of dilatoriness; 4) whether the conduct of the party or attorney was willful or in bad faith; 5) the effectiveness of sanctions other than dismissal, which entails an analysis of alternative sanctions; and 6) the meritoriousness of the claim or defense. Id. at 868. Not all of the six factors need to weigh in favor of dismissal before dismissal is warranted. Hicks v. Feeney, 850 F.2d 152 (3d Cir. 1988).

Applying the Poulis factors to the present matter, this Court recommends the dismissal of this case. For the last several months, Plaintiff has taken none of the necessary steps to prosecute this case against Defendants. In particular, Plaintiff has failed to comply with multiple Orders of this Court. Alternative sanctions, such as monetary penalties, are deemed inappropriate.

III   CONCLUSION

For the foregoing reasons, it is respectfully recommended that this case be dismissed due to Plaintiff's failure to prosecute.

In accordance with the Federal Magistrates Act, 28 U.S.C. § 636(b)(1), and Fed.R.Civ.P. 72(b)(2), the parties are allowed fourteen (14) days from the date of service to file written objections to this report and recommendation. Any party opposing the objections shall have fourteen (14) days from the date of service of objections to respond thereto. Failure to file objections will waive the right to appeal. Brightwell v. Lehman, 637 F. 3d 187, 193 n. 7 (3d Cir. 2011).

/s/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
United States Magistrate Judge

Dated: June 26, 2014

cc: The Honorable Nora Barry Fischer
        United States District Judge